

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**SPECIAL CIVIL APPLICATION No. 2367 of 1999**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy  
of the judgment ?

4 Whether this case involves a substantial question  
of law as to the interpretation of the  
constitution of India, 1950 or any order made  
thereunder ?

5 Whether it is to be circulated to the civil judge  
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**FORDGE & FORDGE PVT. LTD. - Petitioner(s)**  
**Versus**  
**STATE OF GUJARAT & 1 - Respondent(s)**

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**Appearance :**

MR RM CHHAYA for Petitioner(s) : 1,  
MR RC KODEKAR, ASSTT.GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 04/04/2007**

**ORAL JUDGMENT**

1.The erstwhile owner of the land applied for  
conversion of the land from agricultural

purpose to non-agricultural, i.e. industrial purpose and made an application to the Competent Authority, the authority was pleased to grant the said application on 11.11.74 and also accorded sanction to sell the land vide its order dated 9.10.71.

2. The petitioner, a Limited Company, inter alia, engaged in the manufacture of making heavy machineries, purchased the land on 10.1.75, entries were mutated in the revenue records and the petitioner was shown as owner of the property. After coming into force of the amended provisions of the Gujarat Urban Land [Ceiling & Regulation] Act, 1976, the petitioner filed Form No.1 required under Section 6[1] of the Act on 13.8.76. On 29.6.82 and 3.9.83, the petitioner also made applications to the Government seeking exemption under Section 20 of the Act. Both the proceedings were going on parallel, but before the order on exemption application could be made, the Competent Authority, Urban Land Ceiling, vide its order dated 22.3.85 held that the petitioner was possessed of 757.86 sq.mt.

land in excess of its entitlement. A notification under Section 10[3] of the Act was published in the gazette dated 13.6.85. The petitioner, in the meanwhile, had challenged the order passed by the Competent Authority, but the Urban Land Tribunal, vide its order dated 17.9.85 dismissed the appeal. On 10.10.85, a notification under Section 10[5] of the Act was issued and on 20.2.92/20.5.94, possession is stated to be taken by the State authorities. After the petitioner was dispossessed, sister concern of the petitioner company made an application on 25.4.96 for allotment of excess land, but the said application was rejected on 16.12.96. On one side, the Competent Authority, Urban Land Ceiling had decided the matter and dispossessed the petitioner and on the other hand, the petitioner's application for grant of exemption was ultimately rejected on 3.10.98. It must be noted that the order dated 17.9.1985 passed by the Urban Land Tribunal dismissing the petitioner's appeal was not challenged before any forum or court and the

said order attained finality.

3. An application under Section 20 of the Act is required to be heard and decided beforehand, if such application is not decided beforehand and a person is dispossessed after following the procedure provided under Section 10 of the Act, then, the person so dispossessed is required to challenge the final proceedings before some court, otherwise, the said proceedings in the ceiling matter would attain finality.

4. I have gone through the order passed by the authority rejecting the application filed under Section 20 of the Act. The authority has observed that as the petitioner has already been dispossessed, then, for any other reasons, the application under Section 20 cannot be allowed. Section 20 provides for exemption, therefore, proceedings in ceiling matter even if commence but final notification cannot be made under Section 10. When one seeks an exemption and if such exemption is not granted and the land vests in the Government free from all encumbrances, then, Section 20 would have no application and

any pending application in view of non-challenge to the order passed by the Competent Authority would become infructuous. In the opinion of this Court, the authorities were not unjustified in rejecting the application filed under Section 20 of the Act.

5. At this stage, Shri Chhaya, learned counsel for the petitioner submits that the land acquired by the State was part of the factory premises of the petitioner and if the said land is kept open, then, it would not be useful to anybody and if it is allotted to someone, then, it is likely to create problems to the petitioner, therefore, the petitioner is ready and willing to pay the market value of the property so that the State Government may settle that part of the land in favour of the petitioner. He submits that on an earlier occasion, the petitioner made an application to the Government for some relief, but the application came to be rejected on the technical ground that it was not duly stamped. Shri Chhaya submits that the petitioner is ready and willing to submit fresh application

for settlement or for allotment of the amount in favour of the petitioner.

6. Taking into consideration the area of the land and its location, I am of the opinion that the petitioner must be given an opportunity to apply afresh for sale, settlement or allotment of 757.86 sq.mt. land in his favour. If such application is filed by the petitioner within 30 days from today, then, the Authority/Competent Authority of the State shall decide the application in accordance with law taking into consideration the area and its location and further that the petitioner bona fide needs the land for its industrial activities. If the land is to be settled, sold or allotted in favour of the petitioner, then, the State would be free to fix the price which shall be binding upon the petitioner, but in case, the State Government does not propose to settle, sell or allot the land in favour of the petitioner, then, it would be obliged to give reasons for in its order. The petitioner would be given appropriate opportunity of hearing and only thereafter the

State would pass order. It is expected of the authorities that within a period of three months from the date of the submission of the application by the petitioner, the Competent Authority of the State shall pass final orders in the matter. The petition is disposed of. Rule is discharged accordingly. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

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